

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,

v.

JUAN QUIROZ-OREGON,
Defendant.

NO. 2:12-cr-00181-RAJ

ORDER ON DEFENDANT'S MOTION
TO REDUCE SENTENCE PURSUANT
TO 18 U.S.C. § 3582 AND THE FIRST
STEP ACT

THIS MATTER comes before the Court upon defendant Juan Quiroz-Oregon's *pro se* Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(2) and Sections 401 and 402 of the First Step Act. Dkt. 67. Plaintiff United States of America opposes defendant's motion. Dkt. 69. The Court has thoroughly considered the parties' briefing, the relevant record, and the applicable law. Being fully advised, the Court finds oral argument unnecessary and hereby **DENIES** the motion for the reasons explained herein.

On January 7, 2013, defendant Juan Quiroz-Oregon entered pleas of guilty to two counts:

- Possession of Heroin with Intent to Distribute, in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(B); and
- Possession of a Firearm in Furtherance of a Drug Trafficking Crime, in violation of 18 U.S.C. § 924(c).

Dkt. 36.

1 At his sentencing defendant was subject to a mandatory minimum sentence of 60
2 months for possession of heroin with intent to distribute, and a mandatory minimum
3 consecutive sentence of 60 months for possession of a firearm in furtherance of a drug
4 trafficking crime, for a combined mandatory minimum sentence of 120 months.

5 On May 3, 2013, the Court departed below the Guidelines range on the drug count
6 on the basis of 18 U.S.C. § 3553(a) factors, and imposed 60 months' imprisonment on the
7 drug count, plus the mandatory 60 months on the firearm count, with the counts to run
8 consecutively, for a total term of 120 months' imprisonment. Dkt. 46.

9 Defendant now seeks a retroactive reduction in his sentence pursuant to 18 U.S.C.
10 § 3582(c)(2) and Sections 401 and 402 of the First Step Act. Dkt. 67.

11 The government argues that defendant is not eligible for a sentence reduction
12 under § 3582(c)(2) as his conviction involved heroin and, unlike cocaine-base ("crack")
13 offenses, Congress has not amended or reduced the statutory mandatory minimum
14 quantities for heroin offenses since the time defendant's sentence was imposed.
15 Therefore, the government indicates that defendant is ineligible for a retroactive
16 reduction in sentence because his sentence was a mandatory minimum sentence, not a
17 sentence based on a provision of the Sentencing Guidelines that was later amended by
18 Congress. Dkt. 69.

19 The government further contends defendant is not eligible for a sentence reduction
20 pursuant to Sections 401 and 402 of the First Step Act. As it relates to Section 401,
21 which amended the recidivism enhancement provisions by which an eligible repeat drug
22 offender's sentence could be increased, the government argues defendant fails to meet the
23 two criteria that must be met in determining eligibility for relief: (1) that the defendant
24 must have been sentenced on or after the date of the enactment of the First Step Act, that
25 is, December 21, 2018, and (2) that the defendant must have been sentenced based on a
26 recidivist enhancement pursuant to one of the recently amended provisions. The
27 government argues that because defendant was not sentenced pursuant to any recidivist
28 provision that has now been amended by Section 401, and because he was sentenced over

1 five years prior to enactment of the First Step Act, he does not meet either criteria and
2 thus does not qualify for a reduction pursuant to Section 401. Dkt. 69.

3 As it relates to defendant's request for relief under Section 402 of the First Step
4 Act, which expands eligibility for the safety valve provision in 18 U.S.C. § 3553(f) to
5 allow defendants with additional criminal history to qualify for a sentence below a
6 mandatory minimum imposed upon conviction of a drug trafficking offense, the
7 government argues that because defendant was convicted of possessing a firearm in
8 furtherance of a drug trafficking offense, he remains precluded from safety-valve
9 eligibility even after the amendments to Section 402 are taken into consideration.
10 Additionally, as with Section 401, Section 402 states that the amendments to § 3553(f)
11 are applicable only to convictions entered after December 21, 2018, the date of enactment
12 of the statute, and therefore defendant is not eligible for a reduction under this section.
13 Dkt. 69.

14 The Court agrees with the government's analysis. The Court is not authorized to
15 reduce defendant's sentence, and therefore his motion (Dkt. # 67) is **DENIED**.

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17 DATED this 5th day of November, 2021.

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20 The Honorable Richard A. Jones
21 United States District Judge
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